

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VAESO, INC.,

Plaintiff,

-v-

HIGH PEAK SOFTWARE, INC.,

Defendant.

22 Civ. 1220 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On May 23, 2022, third-party defendant Impactiva S. de R.L. ("Impactiva") filed a motion to dismiss defendant High Peak Software, Inc.'s counterclaim under Rule 12 of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a party has 21 days after the service of a motion under Rule 12(b) to amend the pleading once as a matter of course.

Accordingly, it is hereby ORDERED that defendant shall file any amended counterclaim by June 13, 2022. No further opportunities to amend will ordinarily be granted. If defendant does amend, by July 4, 2022, Impactiva shall: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying defendant, stating that they rely on the previously filed motion to dismiss.¹


It is further ORDERED that if no amended counterclaim is filed, defendant shall serve any opposition to the motion to dismiss by June 13, 2022. Impactiva's reply, if any, shall be served by June 27, 2022. At the time any reply is served, the moving party shall supply the Court with a courtesy copy of all motion papers by attaching them as PDF files to a single email

¹ If Impactiva files a new motion to dismiss or relies on its previous motion, defendant's opposition will be due 14 days thereafter, and Impactiva's reply, if any, will be due seven days after that.

addressed to EngelmayerNYSDChambers@nysd.uscourts.gov.

The Court will determine later, after receipt of defendant's anticipated brief opposing a motion to dismiss the current or amended counterclaim, whether to schedule oral argument.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: May 23, 2022
New York, New York